

# **EXHIBIT E**

## **HEFFNER HURST**

### **FIRM RESUME**

Heffner Hurst prosecutes complex and class-action litigation on behalf of individuals, corporations, and institutions. Located in Chicago, Illinois, Heffner Hurst practices in federal and state courts across the nation, and its attorneys have secured multi-million-dollar recoveries in the areas of securities fraud, ERISA, corporate governance, antitrust, trespass, and constitutional law. The firm is composed of the following attorneys:

### **PARTNERS**

**MATTHEW T. HEFFNER** focuses his practice on complex and class-action litigation. Mr. Heffner has been nationally-recognized as a class-action litigator, quoted in newspapers across the country and the ABA Litigation News, and serves as co-chair of the Rule 23 Subcommittee of the ABA's Class Action and Derivative Suit Committee. For ethical standards and legal ability, Mr. Heffner has received the highest possible recognition by Martindale-Hubbell's Peer Review Ratings—AV Preeminent.

In 2012, Mr. Heffner was awarded the prestigious Award for Excellence in Pro Bono Service by the Northern District of Illinois's District Court and the Federal Trial Bar (of which he is a member) for his work on behalf of the religious freedoms of involuntarily committed Muslims in Illinois mental-health facilities. *See Banks v. Almazar*, 2011 WL 1231142 (N.D.IL. Mar. 30, 2011).

Mr. Heffner has litigated a wide array of issues in his career, including:

### **Securities Litigation**

- *Miller v. Dyadic Int'l Inc.*, No. 07-80948 (S.D. Fla.) (Dimitrouleas, J.). Mr. Heffner was lead counsel in this securities fraud class action arising out of the defendants' alleged failure to disclose material facts regarding financial improprieties at its Hong Kong subsidiary. The case settled for \$4.8 million in 2010, representing nearly half of the corporation's then-current assets.
- *In re AHM Secs. Litig.*, No. 007-MD-1898 (E.D.N.Y.). Served as Plaintiffs' counsel and filed first complaint seeking damages from issuer's accountants in securities case arising out of subprime mortgage litigation. Settled for \$37.25 million in October 2009.
- *In re Bank One Secs. Litig.*, No. 00-767 (N.D. Ill.) (Andersen, J.). Mr. Heffner served as the Plaintiffs' Liaison Counsel for the three separate class actions in this matter, and was the lead associate on the (at the time) record-setting \$120 million case involving the merger of First Chicago/NBD and Bank One.

### **ERISA Litigation**

- *Young v. Verizon's Bell Atl. Cash Balance Plan*, No. 05-7314 (N.D. Ill.) (Denlow, Mag. J.). Mr. Heffner served as co-lead counsel in this action involving one of the largest pension miscomputations in history. Mr. Heffner and the attorneys of Heffner Hurst succeeded in a trial on the papers, convincing the court of their interpretation of a defined benefit calculation.
- *Nelson v. UBS Global Asset Mgmt.*, No. 03-6446 (N.D. Ill.) (Kocoras, J.). Mr. Heffner was a member of the trial team that settled this ERISA class action for \$7 million (losses were estimated at \$18 million). Plaintiffs alleged breaches of fiduciary duty in investment practice by one of the world's largest institutional investment managers. The case settled on the first day of trial.

### **Corporate Governance & Fiduciary Duty Litigation**

- *In re: PNB Holding Co. S'holder Litig.*, No. 028-N (Del. Ch.) (Strine, V.C.). Mr. Heffner served as lead trial counsel in this shareholder action challenging the S-Corporation conversion of a community bank in downstate Illinois. Mr. Heffner secured a seven-figure verdict in the class's favor and, in the process, created new law regarding S-Corp. conversions for Delaware corporations.

Mr. Heffner has also served as the CLE/Seminar coordinator for the Chicago Bar Association's Securities Law Committee, and is an active member of the Federal Trial Bar.

Mr. Heffner is admitted in the following jurisdictions:

- Illinois
- Texas (inactive status)
- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. Northern District of Illinois
- U.S. Eastern District of Michigan
- U.S. Southern District of Texas
- U.S. Supreme Court

Born and raised in Elkhart, Indiana, Mr. Heffner attended Indiana University as a National Merit Scholar and Arthur R. Metz Scholar. Mr. Heffner studied philosophy, physics, and mathematics at Indiana and graduated with honors in 1994. Mr. Heffner then attended the University of Texas School of Law as the Charles and Elizabeth Tigar Endowed Presidential Scholar in Law. Mr. Heffner earned his J.D. in 1997.

**MATTHEW T. HURST** concentrates his practice in securities, ERISA, and general class action litigation. Prior to joining the firm, Mr. Hurst practiced at a large national defense firm, where his clients included Illinois Tool Works, Peoples Energy, Hyundai, Mitsubishi, Volvo, AOL Time Warner, Ameritech/SBC, HCA, and Ty Inc. Many of these clients turned to Mr. Hurst in high stakes litigation. For example, Mr. Hurst helped litigate a \$100 million public utility reconciliation dealing with the Enron collapse, and served as liaison counsel in a \$1 billion products liability case. Mr. Hurst is currently litigating three *qui tam* cases on behalf of the State of Illinois seeking to recover tens of millions of dollars in unpaid revenue.

Furthermore, both Crain's Investment News and Money Management have sought Mr. Hurst's insight into constitutional issues related to his challenge of 529 college savings plans on the basis of discriminatory taxation principles. Besides these issues, Mr. Hurst has successfully litigated diverse and challenging cases, including,

## **ERISA Litigation**

- *Young v. Verizon's Bell Atlantic Cash Balance Plan*, No. 05-7314 (N.D. Ill.) (Denlow, Mag. J.). Mr. Hurst litigated this ERISA class action alleging that Bell Atlantic made a multi-billion dollar error in calculating plan participants' opening balances when it converted from a traditional pension plan to a cash balance plan.
- *Schumacher v. AK Steel*, No. 09-794 (S.D. Ohio) (Beckwith, J.). Mr. Hurst successfully obtained summary judgment in this ERISA class action stemming from AK Steel's failure to perform a "whipsaw calculation" when converting employees' benefits. The case raised novel issues of whether a release obtained from class members, purporting to release "all claims," can validly waive the right to ERISA benefits when the fiduciary failed to inform participants of pending litigation. Mr. Hurst successfully defended this case on appeal to the Sixth Circuit and won a rare reversal of a low prejudgment interest rate award at the trial level. *Id.*, 12-3061.
- Conducted litigation against Arthur Anderson, during liquidation, to preserve retirement benefits of retired partners. Despite the threat of impending bankruptcy and absence of ERISA protections, litigation allowed clients to recover a portion of their benefits.

## **Corporate Governance & Fiduciary Duty Litigation**

- *In re: Netezza Co. S'holder Litig.*, No. 5858-VCS (Del. Ch.) (Strine, V.C.). Mr. Hurst served as co-counsel in this derivative action involving both the fairness and disclosures made during the acquisition of the company by IBM. Case settled.
- *In re: Huron Consulting Group S'holder Litig.*, No. 09 CH 30826 (Agran, J.). Mr. Hurst is served as liaison counsel in this derivative action stemming from allegations of accounting fraud at Huron.
- *In re: PNB Holding Co. S'holder Litig.*, No. 028-N (Del. Ch.) (Strine, V.C.). Mr. Hurst served as co-counsel in this shareholder action challenging the S-Corporation conversion of a community bank in downstate Illinois. Litigation resulted in a seven-figure verdict in the class's favor.

## **Miscellaneous Matters**

- Currently litigating class action on behalf of individuals who purchased illusory insurance coverage in connection with their sale of goods on the auction website eBay.
- Mr. Hurst is currently litigating against Bank of America for failing to properly supervise the administration of a trust designed to provide perpetual care for cemetery grave sites. The case raises several issues of first impression under Illinois law.
- Litigated False Claims Act cases against major internet retailers for failure to collect and remit sales taxes despite a physical presence in the state.

- Counsel in several actions challenging the constitutionality of the taking of property and discriminatory taxation schemes. On brief in appeal before U.S. Supreme Court case involving dormant commerce clause jurisprudence.
- Established right of action for homeowners to bring suit against their homeowners' association to maintain common elements. *Willmschen v. Trinity Lakes Improvement Ass'n*, 362 Ill. App. 3d 546, 840 N.E.2d 1275 (2nd Dist. 2005).

Mr. Hurst is admitted in the following jurisdictions:

- Illinois
- Iowa
- U.S. Supreme Court
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Sixth Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. District Court for Northern District of Illinois
- U.S. District Court for Central District of Illinois
- U.S. District Court for Southern District of Illinois
- U.S. District Court for Eastern District of Wisconsin

In 1995, Mr. Hurst graduated from Skidmore College in New York, *summa cum laude* and *Phi Beta Kappa*, with honors in Government and Economics. He graduated from Northwestern University Law School in 1999, where he was on the Dean's List and coached teams for the Northwestern Mock Trial Institute. Mr. Hurst currently serves on the Judicial Evaluation Committee of the Chicago Bar Association.